

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Lassen Municipal Utility District

420 Richmond Road
Susanville, California 96130
&
1605 Chestnut Street
Susanville, California 96130

ID No. CAD981412521
(South Roop Street site)

Respondent.

Docket HWCA 2005-0932

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Lassen Municipal Utility District (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates hazardous waste at the following site: 1605 Chestnut Street in Susanville, California (Site), in Lassen County.
2. The Department received a complaint on October 21, 2004 through the Department of Toxic Substances Control's (DTSC) Complaint Hotline.
3. The Department alleges the following violations:
 - 3.1. On or about October 18, 2004, Respondent violated California Health and Safety Code section 25201, subdivision (a) and California Code of Regulations, title 22, section 66270.1, subdivision (a) (1) in that on or about October 18, 2004, Respondent accepted a 1,000-gallon tanker of hazardous waste/used oil, containing Polychlorinated Biphenyls (PCB) at a site (Richmond Road) that is not permitted to accept hazardous waste generated offsite.

3.2. On or about October 18, 2004, Respondent violated California Health and Safety Code section 25160, subdivision (b) (1) and California Code of Regulations, title 22, section 66262.20, subdivision (a) in that on or about October 18, 2004, Respondent offered for transport a 1,000-gallon tanker of hazardous waste/used oil, containing PCBs without the use of a hazardous waste manifest. On October 18, 2004, a tanker of hazardous waste/used oil, containing PCBs was driven from the Respondent's location at Chestnut Avenue to their Richmond Road location by Paul Thomas Envirotrans without a manifest.

3.3. On or about November 8, 2004, Respondent violated California Code of Regulations, title 22, section 66262.12, subdivision (a) in that the Respondent stored hazardous waste for offsite disposal without an Environmental Protection Agency (EPA) Identification Number. Respondent had been storing the 1,000-gallon tanker of hazardous waste/used oil, containing PCBs at another of its facilities. Subsequent waste analysis by a certified laboratory revealed that the used oil is hazardous due to the concentration of PCBs in the waste.

3.4. On or about November 8, 2004, Respondent violated California Health and Safety Code 25189, subdivision (a) in that the Respondent failed to accurately complete a hazardous waste manifest for offsite disposal of hazardous waste/used oil, containing PCBs with an incorrect EPA Identification Number. The Respondent negligently completed the hazardous waste manifest for transport using the incorrect EPA Identification Number from another of its facilities.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code section 25187.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

8. Respondent admits the allegations made in the Enforcement Order.

SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1. Respondent has submitted documentation to the Department to show that violations 3.1, 3.2, 3.3, and 3.4. have been adequately corrected or addressed. Therefore, no further actions are required on the part of Respondent with respect to these alleged violations.

9.2. Respondent asserts that they have corrected the conditions underlying the alleged violations 3.1, 3.2, 3.3, and 3.4. The Department relies on the assertion as material facts in entering this order.

9.3. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

9.4. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other

writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.5. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.6. Compliance with Applicable Laws: Respondent shall carry out this Consent Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 11.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.11. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total of \$9,000.00. If the Respondent successfully completes the conditions specified in paragraphs 10.2 and 10.3, the total sum shall be reduced by \$5,000.

10.1. Payment is due as follows:

Payment	Due	Payable to
\$4,000.00 (Penalty reflects \$5,000.00 reduction per paragraph 10.2 & 10.3)	30 days from the effective date of this Order (paragraph 11.4).	Department of Toxic Substances Control
\$5,000 (contingent, pursuant to paragraph 10.2 & 10.3)	185 days from the effective date of this Order (paragraph 11.4).	Department of Toxic Substances Control

Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Mr. Charles A. McLaughlin, Branch Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

10.2. The penalty shall be reduced by \$5,000.00 if, and only if, Respondent sends at least one employee to the California Compliance School, Modules I – IV, and submits to the Department, within 185 days of the effective date of this Consent Order, Certificates of Satisfactory Completion thereof.

10.3. In the event that the above Certificates of Satisfactory Completion are not all received by the Department within 185 days of the effective date of this Consent Order, the entire remaining balance of \$5,000.00 shall then become due and payable.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: December 7, 2005

Original signed by Jaimee A. Richey
Lassen Municipal Utility District, Respondent

Jaimee A. Richey, General Counsel
Printed Name and Title of Respondent

Dated: December 14, 2005

Original signed by Sangat Kals
Sangat Kals, Ph.D., Section Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control